

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SERGEY FEDOROVICH GOLOVASHCHENKO,
LAURENT BERNARD CHAPPUIS,
GUENTHER BAUMANN, RUDY REGELIN,
GARY MASAK, RICHARD R. WEIR,
and WILLIAM STEVEN STEWART

Appeal 2007-0551
Application 09/927,281
Technology Center 3700

Decided: May 15, 2007

Before EDWARD C. KIMLIN, BRADLEY R. GARRIS, and
JEFFREY T. SMITH, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-4, 12, and 13.
Claims 1 and 12 are illustrative:

1. An apparatus for trimming scrap from a blank comprising:

a steady blade;

a clamping pad securing the blank to said steady blade;

a moving blade movable past said steady blade for trimming the blank, said moving blade moving substantially perpendicular to an upper surface of said blank;

a radius formed on the leading edge of said moving blade adapted to reduce defects in the blank associated with the trimming process; and

a support element in communication with the scrap and adapted to reduce defects in the blank associated with the trimming process, said support element moving substantially perpendicular to said upper surface.

12. A method of reducing the production of defects during trimming operations comprising:

holding a blank between a steady blade and a clamping pad;

moving a moving blade past said steady blade to trim scrap off of said blank, said moving blade moving perpendicular to an upper surface of said blank;

supporting said scrap to reduce defects in said blank associated with the trimming process;

keeping said scrap substantially parallel to said scrap's original orientation during the trimming process; and

reducing the strain concentration caused by said moving blade on said blank through the use of a radius formed on the leading edge of said moving blade.

The Examiner relies upon the following references in the rejection of the appealed claims:

Madsen	US 3,167,985	Feb. 2, 1965
Kohama	US 4,660,401	Apr. 28, 1987
Li	US 5,820,999	Oct. 13, 1998
Bennett	US 6,370,931 B2	Apr. 16, 2002

Hambli et al. (hereafter "Hambli"), "Finite element modeling of the sheet metal blanking operations with experimental verification," 102 Journal of Materials Processing Technology 257-65 (2000)

Appellants' claimed invention is directed to an apparatus and method for trimming scrap from a blank. The apparatus comprises, *inter alia*, steady and moving blades for trimming the blank wherein a radius is provided on the leading edge of the moving blade to reduce defects in the blank that are associated with the trimming process. The apparatus also comprises a support element for the trimmed scrap that moves substantially perpendicular to the upper surface of the blank.

Appealed claims 1-4, 12, and 13 stand rejected under 35 U.S.C § 102(b) as being anticipated by Kohama. Claims 1-3, 12, and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Madsen. In addition, the appealed claims stand rejected under 35 U.S.C § 103(a) as follows:

- (a) claims 1-4, 12, and 13 over Kohama in view of Hambli;
- (b) claims 1-3, 12, and 13 over Madsen in view of Hambli;
- (c) claims 1-4, 12, and 13 over Kohama in view of Bennett;
- (d) claims 1-3, 12, and 13 over Madsen in view of Bennett;

(e) claims 1-4, 12, and 13 over Kohama in view of Li; and

(f) claims 1-3, 12, and 13 over Madsen in view of Li.

We have thoroughly reviewed each of Appellants' arguments for patentability. However, we are in complete agreement with the Examiner that the claimed subject matter is unpatentable over the cited prior art. Accordingly, we will sustain the Examiner's rejections for the reasons set forth in the Answer, and we add the following primarily for emphasis.

We consider first the § 102 rejections over Kohama and Madsen. As appreciated by the Examiner, both Kohama and Madsen, although directed to trimming apparatus comprising steady and moving blades, are silent with respect to a radius being provided on the leading edge of the moving blade. However, Appellants do not dispute the Examiner's factual determination that Hambli evidences that all cutting blades, even new ones, possess a radius on its leading edge. In particular, Hambli discloses that the cutting edge radius for a new blade is 0.01 mm.

Appellants' principal contention is that "the term radius when utilized in the present application has a definition of a radius greater than 0.1 mm" (Reply Br. 2, second para.). Appellants maintain that during prosecution of the present application they have repeatedly made a clear and unmistakable disclaimer that the claimed radius must be greater than 0.1 mm. However, a fundamental principle of patent jurisprudence is that limitations may not be read into a claim from the specification or elsewhere. *In re Etter*, 756 F.2d 852, 858, 225 USPQ 1, 5 (Fed. Cir. 1985). *Omega Eng'g Inc. v. Raytek*

Corp., 334 F.3d 314, 67 USPQ2d 1321 (Fed. Cir. 2003), cited by Appellants, does not overturn or erode this well-settled principle. *Omega Eng'g* involves patent infringement and the interpretation of claim language under the presumption of validity, but in no way stands for the proposition that an applicant's argument may place a numerical limitation on a claimed term having no quantitative limits. Indeed, Appellants' own specification is not so limiting. To wit, the Specification discloses that "[a]lthough a blank thickness 27 and radius 24 have been described, it should be understood that a vast array of radii can be used in conjunction with differing blank thickness and blank materials may be utilized" (Specification 7:13-17). Hence, inasmuch as it is undisputed that the leading edge of the moving blades of Kohama and Madsen possess a radius, both references describe a radius within the broad scope of the appealed claims. As for the claim 1 recitation "adapted to reduce defects in the blank," the claim language is relative in nature with no expressed standard for comparison and, therefore, does not serve to distinguish over the inherent radii of the moving blades of Kohama and Madsen.

Concerning the § 103 rejections of Kohama in view of Hambli and Madsen in view of Hambli, it logically follows that we concur with the Examiner that Kohama and Madsen support a conclusion of obviousness of the claimed subject matter, with or without the additional motivation provided by Hambli. Manifestly, anticipation is the epitome of obviousness. Moreover, we agree with the Examiner that Hambli establishes the

obviousness of employing a cutting edge having a radius of 0.01 mm in order to reduce cutting defects. Also, as explained by the Examiner, Hamblin provides evidence that the cutting edges of Kohama and Madsen, after some use, would have a radius of 0.2 mm, which value is within the greater than 0.1 mm asserted by Appellants for the claimed radius.

We also agree with the Examiner that Bennett and Li provide additional evidence that it was known in the art of cutting or trimming blanks to employ a cutting edge having a radius. As set forth by the Examiner, Bennett expressly states that “[t]he provision of a radiused or rounding on the operating edges of the die 1 is crucial to the provision of a smooth edged stamping” (col. 8, ll. 40-42). We find no merit in Appellants’ argument that Bennett teaches a punch apparatus, not a trimming apparatus, and that Bennett teaches no radius on the moving portions of the apparatus. We concur with the Examiner that the claimed trimming apparatus and operation does not exclude punching operations from the scope of the appealed claims. Appellants have not established on this record any distinction in the art between trimming an endpiece off a blank and trimming the periphery away from a punched area. While Appellants maintain that trimming and punching operations involve different parameters, Appellants have proffered no objective evidence which elevates the assertion beyond the status argument of counsel. Moreover, we emphasize that the claimed trimming apparatus and method is not limited to cutting off an endpiece.

Also, we find no error in the Examiner's rationale that it is of no moment whether the radius is provided on the moving or steady blade. It would seem, absent evidence to the contrary, that "only the relative motion between the two blades has any bearing on the quality of the cut" (Answer 13, penultimate para.). At any rate, for the reasons set forth above, it is reasonable to conclude that the moving blade of Bennett inherently possesses a radius.

Concerning the Li disclosure, Appellants have not refuted the Examiner's factual finding that the reference, at figure 10, demonstrates that the quality of the cut improves with a larger blade radius (Answer 15, second para.).

Regarding Appellants' argument that Kohama supports the blank rather than the claimed scrap, we concur with the Examiner that "what one calls the blank and what one calls the scrap is a matter of viewer perspective" (Answer 15, last full sentence). Certainly, it has often been said that one man's trash is another man's treasure. In addition, we agree with the Examiner that Appellants' argument is not germane to the apparatus claims on appeal.

Appellants also make the argument that "Madsen fails to insure perpendicular movement as both the scrap and the support move in an angular fashion relative to the upper surface" (principal Br. 11). However, we agree with the Examiner that figure 2 of Madsen rebuts this argument. Also, Madsen specifically discloses that "[w]hen the platen 10 is moved

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upwardly after the shearing operation, the rubber strippers will expand upwardly and strip the severed workpiece from the cavity defined by the steel cutting blades 16” (col. 2, ll. 25-30).

As a final point, we note that Appellants base no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the inference of obviousness established by the applied prior art.

In conclusion, based on the foregoing and the reasons well stated by the Examiner, the Examiner’s decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2006).

AFFIRMED

clj

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